



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS-0026-NC]

Request for Information Regarding the Requirements for the Health Plan Identifier

AGENCY: Office of the Secretary (HHS).

ACTION: Request for information.

SUMMARY: This request for information seeks public comment regarding the health plan identifier (HPID) including the requirements regarding health plan enumeration and the requirement, to use the HPID in electronic health care transactions.

DATES: To be assured consideration, written or electronic comments must be received at one of the addresses provided below, no later than 5 p.m. on [Insert date 60 days after date of publication in the **Federal Register**].

ADDRESSES: In commenting, refer to file code CMS-0026-NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. Electronically. You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. By regular mail. You may mail written comments to the following address
ONLY:

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-0026-NC,
P.O. Box 8013,
Baltimore, MD 21244-8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. By express or overnight mail. You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-0026-NC,
Mail Stop C4-26-05,
7500 Security Boulevard,
Baltimore, MD 21244-1850.

4. By hand or courier. Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses:

a. For delivery in Washington, DC--

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Room 445-G, Hubert H. Humphrey Building,
200 Independence Avenue, SW.,
Washington, DC 20201

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD--

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
7500 Security Boulevard,
Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

FOR FURTHER INFORMATION CONTACT:

Geanelle G. Herring, (410) 786-4466.

Chevell Thomas, (410) 786-1387.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search

instructions on that website to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

I. Background

Section 262 of the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191, added section 1173 to the Social Security Act (the Act) and required, among other things, the Secretary of the Department of Health and Human Services (HHS) (the Secretary) to adopt standards providing for a standard unique health identifier for each health plan. The Congress renewed that requirement in 2010 in section 1104 of the Patient Protection and Affordable Care Act (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively known as the Affordable Care Act), requiring the Secretary to promulgate a final rule to establish a unique health plan identifier based on the input of the National Committee on Vital and Health Statistics, with such rulemaking to be effective not later than October 1, 2012.

In the September 5, 2012 **Federal Register** (77 FR 54664), the Secretary issued the Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD-CM

and ICD-10-PCS) Medical Data Code Sets final rule (hereinafter referred to as the "HPID final rule") adopting a standard for a unique health plan identifier (HPID) and established requirements for its implementation. The final rule was effective November 5, 2012.

With the exception of small health plans, plans were required to obtain an HPID by November 5, 2014 (small plans have until November 5, 2015). In recognition of the fact that health plans have many different business structures and arrangements, the HPID final rule created an enumeration structure that distinguishes between controlling health plans (CHPs) and subhealth plans (SHPs) and enables health plans to obtain HPIDs to reflect those arrangements and be identified appropriately in HIPAA transactions. CHPs are required to obtain HPIDs while SHPs are not. The HPID final rule also created an optional other entity identifier (OEID) to facilitate the identification in HIPAA transactions of entities that are not health plans, health care providers, or individuals, yet need to be identified in such transactions.

The HPID final rule does not require covered entities to identify a health plan in a HIPAA transaction. But, where a covered entity does identify a health plan in a HIPAA transaction, the final rule specifies that, on or after November 7, 2016, it must use an HPID to do so.

In early 2014, the National Committee on Vital and Health Statistics (NCVHS) conducted a number of hearings regarding the HPID. Those hearings yielded testimony from various segments of the industry expressing concerns about the HPID and the need for additional clarification and led the NCVHS, on September 23, 2014, to recommend that the Secretary specify that the HPID not be used in HIPAA transactions and clarify the HPID's use. On October 31, 2014, HHS exercised enforcement discretion and advised

the public of a delay, until further notice, in enforcement of 45 CFR 162, Subpart E (the regulations pertaining to HPID enumeration and use) so that HHS could review the NCVHS's recommendations and consider next steps. (See <http://www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/Affordable-Care-Act/Health-Plan-Identifier.html>).

II. Solicitation of Comments

We are soliciting public input to assess the NCVHS's recommendations to determine whether policy changes may be warranted. We also note that, since the publication of the HPID final rule, the nation's health care system has experienced sweeping changes, including implementation of the Affordable Care Act's marketplaces. Therefore, we are requesting information regarding the following:

- The HPID enumeration structure outlined in the HPID final rule, including the use of the CHP/SHP and OEID concepts.
- The use of the HPID in HIPAA transactions in conjunction with the Payer ID.
- Whether changes to the nation's health care system, since the issuance of the HPID final rule published September 5, 2012, have altered your perspectives about the function of the HPID.

III. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "DATES" section of this preamble; and, when we issue a subsequent document, we will respond to the comments in the preamble to that document.

Approved May 25, 2015.

Sylvia M. Burwell,

Secretary.

Department of Health and Human Services.

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